Contribution to the General Discussion in preparation for General Comment No. 36

(Article 6 of the ICCPR: Right to life)

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**The National Right to Life Educational Trust Fund**

757 3rd Ave. Suite 2128

New York, NY 10017

(212) 947-2692

As the Human Rights Committee prepares to comment on the meaning of Article 6 of the International Covenant on Civil and Political Rights (ICCPR), which guarantees the right to life, the National Right to Life Committee (NRLC) urges the Committee to carefully consider the proper scope of this right. NRLC argues that the right to life should be interpreted to apply to all human beings, at every stage of biological development and in every condition, including the unborn and those whose lives are taken by euthanasia and assisted suicide.

*Why the right to life should encompass the unborn*

The ICCPR states, “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life” (Article 6.1). The right to life should be interpreted to apply to the unborn (i.e., human embryos and fetuses) for several reasons.

First, the unborn are, in fact, human beings. They are living human organisms—individual members of the species *Homo sapiens*—at the earliest stages of development. All human adults were once embryos and fetuses, just as they were once infants and adolescents (they have the same DNA throughout). The scientific evidence has established this fact beyond any doubt. Why shouldn’t the ICCPR’s reference to “every human being” include every member of the human species? If human rights are universal, then they apply to all human beings, including human beings who have not yet been born.

Second, the ICCPR prohibits discrimination on the basis of birth or other characteristics. It states, “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” (Article 26). It also affirms that every child has a right to protection “without any discrimination” (Article 24). Denial of the right to life to human beings *in utero* is discrimination on the basis of age, size, ability, location, or dependency. This discrimination is arbitrary and unjustified. No human beings should be excluded from recognition and protection of their human rights.

Third, the ICCPR says that the human right to life is “inherent” (Article 6.1) and derives from “the inherent dignity of the human person” (preamble). This can reasonably be understood to mean that human beings have a right to life simply because they are human. They have human rights by nature, by virtue of what (i.e., the kind of being) they are. And that means that all human beings, at all stages of their lives, have a right life—from the time they begin to exist at conception until the time of their death. It means that they have a right to life *during the embryonic and fetal stages of their development*. Thus, if human beings “inherently” have a right to life, then unborn human beings have a right to life.

Fourth, Article 6 of the ICCPR prohibits the death penalty for pregnant women. It states, “Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women” (Article 6.5). This implicitly recognizes the independent status and value of unborn children.

Fifth, the right to life of the unborn is supported by other international instruments. The Convention on the Rights of the Child explicitly recognizes that unborn children deserve legal protection. The treaty states, “[T]he child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, *before as well as after birth*” (preamble). It also affirms, “States Parties recognize that every child has the inherent right to life,” and “States Parties shall ensure to the maximum extent possible the survival and development of the child” (Article 6). Similarly, the American Convention on Human Rights explicitly protects the right to life of the unborn. It states, “Every person has the right to have his life respected. This right shall be protected by law and, in general, *from the moment of conception*. No one shall be arbitrarily deprived of his life” (Article 4.1). Many signatories to the ICCPR protect the unborn in their laws or constitutions.

 Sixth, no right to abortion—the killing of human beings before they are born—has ever been established in international law. No United Nations treaty or customary international law can accurately be interpreted as creating such a right. The ICCPR certainly does not include a right to abortion. Nor does the International Covenant on Economic, Social, and Cultural Rights or the Convention on the Elimination of All Forms of Discrimination Against Women. (For supporting documentation, see the San Jose Articles, which are available at http://www.sanjosearticles.com.)

For all of these reasons, Article 6 of the ICCPR should be interpreted to apply to the unborn. Human beings *in utero*, like all other members of the human family, have a right to life deserving of recognition and protection under the law. Yet tens of millions of abortions take place worldwide each year. The right to life guaranteed by the ICCPR entails that States Parties ought to take action to prevent this widespread killing.

*Why the right to life should protect against euthanasia*

 For similar reasons, the right to life should be interpreted to guard against physician-assisted suicide and euthanasia. First, assisted suicide and euthanasia involve the intentional killing of human beings. But the ICCPR affirms that “every human being has the inherent right to life” and “this right shall be protected by law.” Why should this right not protect all individuals against intentional killing? States ought to safeguard the lives of everyone.

 Second, laws permitting euthanasia discriminate by denying the right to life of the disabled, sick, and elderly. Such laws authorize the killing of persons who meet certain criteria (usually those who are sick or disabled) but not the killing of everyone else (those who are able-bodied or physically healthy). Some people remain protected under the law while others are deemed eligible to be killed. But the ICCPR prohibits discrimination (Article 26), and the Convention on the Rights of Persons with Disabilities specifically prohibits the denial of the right to life of disabled persons: “States Parties reaffirm that every human being has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others” (Article 10). The Convention also prohibits “discriminatory denial of health care or health services or food and fluids on the basis of disability” (Article 25).

 Third, the ICCPR considers the “inherent right to life” to be an inalienable right. It declares “the equal and inalienable rights of all members of the human family” (preamble). But an inalienable right is one that cannot be taken away or forfeited by the rights-bearer. An individual’s desire to die, therefore, does not nullify his or her right to life.

 Fourth, the legalization of euthanasia has, in practice, led to the killing of some persons who are influenced by pressure, coercion, and mental illness. And it has, in some places, led to the killing of patients without an explicit, voluntary request. Prohibiting euthanasia is necessary to prevent these obvious violations of the right to life and to safeguard the most vulnerable members of society. In its 2009 evaluation of the Netherlands, the Human Rights Committee acknowledged that it “remains concerned at the extent of euthanasia and assisted suicides in the State party. Under the law on the Termination of Life on Request and Assisted Suicide, although a second physician must give an opinion, a physician can terminate a patient’s life without any independent review by a judge or magistrate to guarantee that this decision was not the subject of undue influence or misapprehension.” The Committee urged that the Dutch law “be reviewed in light of the Covenant’s recognition of the right to life” (“Consideration of Reports Submitted by States Parties under Article 40 of the Covenant, The Netherlands,” CCPR/C/NLD/CO/4).

 Fifth, no right to euthanasia or “right to die” has ever been created in international law. And the right to life cannot plausibly be interpreted as entailing a “right to die.” The European Court of Human Rights has noted that the right to life “cannot, without a distortion of language, be interpreted as conferring the diametrically opposed right, namely a right to die; nor can it create a right to self-determination in the sense of conferring on an individual the entitlement to choose death rather than life” (*Pretty v. the United Kingdom*, no. 2346/02).

 Nevertheless, a number of jurisdictions around the world have authorized euthanasia or assisted suicide. For the reasons listed above, this practice should be considered a clear violation of the right to life protected by Article 6 of the ICCPR.

*The human right to life belongs to all humans*

 The Human Rights Committee, in its 1982 General Comment on Article 6, explained that the right to life “is the supreme right from which no derogation is permitted even in time of public emergency which threatens the life of the nation.” The Committee also wrote that it is “a right which should not be interpreted narrowly.”

 Every human being—every member of our species—has the inherent right to life. States Parties ought to apply this right inclusively, not exclusively. The right to life belongs to the whole of the human family, including the unborn, sick, disabled, and elderly. No part of humanity should be left out.

*The National Right to Life Committee (NRLC), a federation of 50 state right-to-life affiliates and more than 3,000 local chapters, is the United States’ oldest and largest grassroots pro-life organization. NRLC works through legislation and education to protect innocent human life from abortion, infanticide, assisted suicide, and euthanasia. The NRLC Educational Trust Fund is a non-governmental organization in special consultative status with the United Nations Economic and Social Council.*